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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/666,188	09/10/2003	Jeffrey Wayne Eberhard	RD-28,444-2	8797
6147	7590	04/18/2006		EXAMINER
				HO, ALLEN C
			ART UNIT	PAPER NUMBER
				2882

DATE MAILED: 04/18/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

6/2

Office Action Summary	Application No.	Applicant(s)
	10/666,188	EBERHARD ET AL.
	Examiner	Art Unit
	Allen C. Ho	2882

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
 - If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
 - Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) Responsive to communication(s) filed on 15 February 2006.
 2a) This action is FINAL. 2b) This action is non-final.
 3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) Claim(s) 36,37 and 39-47 is/are pending in the application.
 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
 5) Claim(s) _____ is/are allowed.
 6) Claim(s) 36,37 and 39-47 is/are rejected.
 7) Claim(s) _____ is/are objected to.
 8) Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) The specification is objected to by the Examiner.
 10) The drawing(s) filed on 12 July 2004 is/are: a) accepted or b) objected to by the Examiner.
 Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
 Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
 11) The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
 * a) All b) Some * c) None of:
 1. Certified copies of the priority documents have been received.
 2. Certified copies of the priority documents have been received in Application No. _____.
 3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____ |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____ | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Claim Rejections - 35 USC § 102

1. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

2. Claims 36, 37 and 39-47 are rejected under 35 U.S.C. 102(b) as being anticipated by Hughes (U. S. Patent No. 5,754,622).

With respect to claim 36, Hughes disclosed a radiation imaging system comprising: a movable (rotatable) radiation source (20); a radiation detector (90); a collimator (4) comprising an adjustable geometry aperture assembly comprising an aperture (column 4, lines 3-13); a collimator positioning apparatus (6, 18) configured to synchronize an adjustment of the geometry of the aperture with the movement of the radiation source (column 3, lines 54-66) and to coordinate the adjustment of the geometry of the aperture with the radiation source position and with the radiation detector position so as to limit the incident radiation to a predetermined exposure area (an imaging area) at the detector.

With respect to claim 37, Hughes disclosed the imaging system of claim 36, wherein the aperture assembly is configured for adjusting at least one of the position of the aperture and the shape of the aperture.

With respect to claims 39 and 40, Hughes disclosed the imaging system of claim 36, wherein the aperture assembly comprises a plurality of movable sides (multileaf collimator).

With respect to claim 41, Hughes disclosed the imaging system of claim 36, wherein the aperture assembly comprises multiple independently positionable sections (multileaf collimator) with different boundary shapes (the aperture assembly has different boundary shapes depending on the positions of the positionable sections).

With respect to claim 42, Hughes disclosed the imaging system of claim 41, wherein the multiple sections have linear boundaries.

With regard to claim 43, Hughes disclosed the imaging system of claim 39, wherein the plurality of sides comprise rotationally (about rotational axis **8**) and translationally movable sides.

With respect to claim 44, Hughes disclosed a method for radiation imaging, comprising: moving (**6**) a radiation source in a plurality of radiation source positions; synchronizing an adjustment of a geometry of an aperture with the movement of the radiation source and coordinating at least one of the position and the shape of the aperture with the respective position of the radiation source (column 3, lines 54-66) and with the radiation detector position such that a radiation beam emanating from the radiation source is collimated to limit the incident radiation to a predetermined exposure area (an imaging area) at a radiation detector; and detecting the radiation beam on the radiation detector (**90**).

With regard to claim 45, Hughes disclosed a tomosynthesis system comprising: a movable (rotatable) radiation source (**20**); a radiation detector (**90**); a collimator (**4**) comprising an adjustable geometry assembly (column 4, lines 3-13) comprising an aperture, the assembly configured such that an adjustment of the geometry of the aperture is synchronized in time with respect to a movement of the radiation source and coordinated in space with respect to, the

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radiation source position (column 3, lines 54-66) and with the radiation detector position so as to limit the incident radiation of the tomosynthesis system to a predetermined exposure area (an imaging area) at the detector. Note: although this claim recites "tomosynthesis system", it fails to define a system that is structurally distinguishable from the prior art. Structurally, this tomosynthesis system comprises a movable radiation, a radiation detector, and a collimator synchronized with the motion of the radiation source, and it is not distinguishable from the prior art. MPEP § 2114.

With regard to claim 46, Hughes disclosed the tomosynthesis system of claim 45, wherein the aperture assembly is configured for adjusting at least one of the position of the aperture and the shape of the aperture.

With regard to claim 47, Hughes disclosed the tomosynthesis of claim 45, further comprising a collimator assembly comprising a collimator positioning apparatus (6, 18) for positioning the collimator.

Response to Arguments

3. Applicant's arguments filed 15 February 2006 with respect to claims 36, 37, 39-47 have been fully considered and are persuasive. The rejections of claims 36, 37, 39-47 under 35 U.S.C. 112, second paragraph, have been withdrawn.

4. Applicant's arguments filed 15 February 2006 have been fully considered but they are not persuasive.

The applicants continue to argue that Hughes failed to disclose synchronizing adjustments of the geometry of the aperture to limit the incident radiation to a predetermined

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exposure area at the detector. The examiner respectfully disagrees. It is noted there seems to be a disagreement as to what constitutes "a predetermined exposure area at the detector". Through out the prosecution, the limitation "a predetermined exposure area at the detector" has been interpreted by the examiner to mean a sensitive/imaging area on the detector. As disclosed by Hughes, a detector (90) is positioned opposite a radiation source (20) to measure the radiation exiting a patient in order to verify the radiation treatment (column 4, lines 30-44). To measure the radiation exiting the patient, the detector must be capable of capturing all of the radiation exiting the patient, *i. e.*, all of the radiation exiting the patient must be limited to fall on a sensitive area of the detector. Otherwise, the radiation treatment could not be fully verified if a portion of the radiation falls outside the sensitive area of the detector, *i. e.*, a portion of the radiation is not measured. This predetermined exposure area is also clearly illustrated in Fig. 6. Thus, although the cross-section of the radiation is adjusted with the radiation source position and the radiation detector position, the radiation exiting the patient is always limited to fall on a predetermined exposure area (a sensitive area) on the detector.

For the above reason, the rejection is being maintained.

Conclusion

5. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after

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the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Allen C. Ho whose telephone number is (571) 272-2491. The examiner can normally be reached on Monday - Friday from 8:00 am - 5:00 pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Edward J. Glick can be reached at (571) 272-2490. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).



Allen C. Ho, Ph.D.
Primary Examiner
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